

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

PREFERRED TAX SERVICE, INC., :
 : Civil Action No.
Plaintiff, : 1:05-CV-00872-SLR
 :
v. :
 :
THE TAX AUTHORITY, INC., :
et al., :
 : JURY TRIAL DEMANDED
Defendants. :

REDACTED APPENDIX TO BRIEF IN SUPPORT OF MOTION FOR
SANCTIONS PURSUANT TO RULE 11, F.R.C.P., OF DEFENDANTS,
THE TAX AUTHORITY, INC., AND KENNETH M. LEESE

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The Tax Authority and
Kenneth M. Leese*

DATED: June 13, 2006

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December 20, 2005

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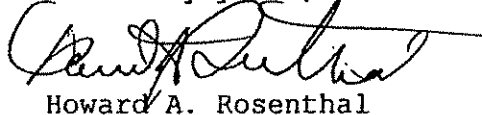
Re: Preferred Tax Service, Inc., v. The Tax Authority,
Inc., et al.; Civil Action No. 05-CV-872 (United States
District Court for the District of Delaware).

Dear Mr. Julian:

Please be advised that this law firm represents The Tax Authority, Inc., and Kenneth M. Leese in connection with this litigation. Please direct all future correspondence and contacts to our attention. In addition, please notify us of any hearing dates which may be scheduled in connection with the Motion for Temporary Restraining Order.

We also suggest that plaintiff reconsider this ill-advised and frivolous action, which simply attempts to interfere with free competition and business. If it fails to do so, given the lack of any factual or legal merit, we will file a Rule 11 Motion and seek all appropriate sanctions against plaintiff and counsel. As the Complaint makes clear, there was no agreement, no consideration for any agreement (if one even would be deemed to exist) and no possible restriction on the right to do business.

Sincerely yours,


Howard A. Rosenthal

HAR:ds

App 1

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

PREFERRED TAX SERVICE, INC., :
 : Civil Action No.
Plaintiff, : 1:05-CV-00872-SLR
 :
v. :
 :
THE TAX AUTHORITY, INC., et al., :
 :
Defendants. :
 :

AFFIDAVIT OF KENNETH M. LEESE IN OPPOSITION TO
PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER.

Kenneth M. Leese, being duly sworn according to law,
deposes and states as follows:

1. I am a defendant in this action and the President of defendant, The Tax Authority, Inc. ("Tax Authority"). I am authorized to make this Affidavit in opposition to the Motion for Temporary Restraining Order filed by plaintiff, Preferred Tax Service, Inc. ("PTS").
2. Tax Authority operates tax preparation businesses under the name "Jackson Hewitt" in various locations in Pennsylvania, New Jersey, Delaware and Florida.
3. PTS operates a tax preparation business in Wilmington, Delaware.
4. In 2003, Tax Authority purchased a Jackson Hewitt franchise in Wilmington, Delaware.
5. Some time in 2004, I desired to further expand Tax Authority's business by adding another location in Wilmington.
6. I initially met with PTS' principal, Edwin Swan ("Swan"), concerning Tax Authority's potential acquisition of PTS.

7. At that time, Swan indicated that he was not interested, but stated that he would contact me if he reconsidered.

8. In or about June, 2005, Swan contacted me and indicated that he was interested in selling PTS.

9. I subsequently met with Swan at PTS' offices in Wilmington to discuss a possible transaction.

10. At that meeting, I told Swan that the purchase price would be based upon PTS' gross revenues and that, if Tax Authority determined the business desirable, we generally were willing to pay up to 100% of gross revenues.

11. Also at that meeting, solely in order to document PTS' gross revenues, Swan gave me a list which identified the names of PTS' customers and PTS' charges to those individuals, without any contact information or any description of the specific tax services provided.

12. Other than reviewing PTS' purported total gross revenues, Tax Authority never reviewed or used this document for any purpose, nor does it intend to do so.

13. At no time did Swan or his associate Calvin Harmon, an attorney, suggest that the document was confidential or request any form of confidentiality agreement.

14. Nor did PTS request that Tax Authority agree to any restrictive covenant prohibiting Tax Authority from doing business in Wilmington if the negotiations were not successful.

15. At that meeting, Swan and I also discussed my judgment that PTS' office lacked sufficient space for Tax Authority's intended operation at that location in Wilmington.

16. Swan later contacted me by e-mail and put me in touch with defendant, Robert Piane, who owned a building with available space.

17. Swan told me that I should contact Piane directly to look at the space and negotiate a lease if the space was appropriate.

18. At no time did Swan suggest that the referral to Piane was conditioned on Tax Authority's agreement that it would only proceed with a lease if it completed the acquisition of PTS.

19. In fact, Tax Authority never agreed to any restriction on its right to lease space or compete with PTS in Wilmington as a condition of the negotiations.

20. After the referral by Swan, I contacted Piane, and Tax Authority ultimately entered into a Lease with Piane dated August 8, 2005 ("Lease") for property located at 2132 North Market Street ("Property"). A true and correct copy of the Lease is attached to PTS' Complaint as Exhibit "J."

21. The Lease was not subject to any conditions or contingencies relating to the potential acquisition of PTS, as Tax Authority had determined to add a location in the Wilmington market whether or not it acquired PTS.

22. Pursuant to the Lease, Tax Authority agreed to lease the Property for a 69 month term beginning on September 1, 2005, for a monthly rental of \$1,250. Tax Authority also agreed to pay the first year rental in advance at a reduced monthly rate of \$1,175 (for a total first-year payment of \$14,100), particularly in light of renovation costs to be borne by Plane.

23. On the same day that Tax Authority entered into the Lease (August 8, 2005), I e-mailed a draft, non-binding letter of intent to Swan, for the purpose of "open[ing] discussion on some of the basic terms and conditions of the proposed purchase ... of the Tax Business owned by you."

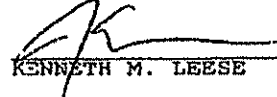
24. I later transmitted a revised proposal to PTS on September 19, 2005, and believed that the parties were close to an agreement, as we had proposed to purchase PTS for 120% of its gross revenues on the condition that Swan and Harmon execute restrictive covenants.

25. On September 30, 2005, Swan advised me, without any rationale, that he was not going to sell PTS to Tax Authority.

26. Tax Authority went forward with plans to open a tax business at the Property without acquiring PTS.

27. Tax Authority has not used any information disclosed by Swan during the parties' negotiations, and does not intend to do so.

I have reviewed the foregoing Affidavit consisting of twenty-seven (27) paragraphs and swear that these averments are true and correct under penalty of perjury.


KENNETH M. LEESE

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

PREFROND MASTER VICE-PR

Civil Action No. 1:05-cv-00872-SLR

COLEPORTER **11**

1997-1998

2014

1. **CRISTINA, C.** *La novela de la memoria de la guerra civil*. Madrid: Espasa, 2004.

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21. The family composition of the household and the educational level of the respondent respondent are also statistically associated with the respondent's perceived health status. The respondents with a higher education level are more likely to perceive their health status as better than the respondents with a lower education level. The respondents with a higher education level are more likely to perceive their health status as better than the respondents with a lower education level.

Since time included in 2002, this contract by U.S. War College functioned that it was in the process of changing its business and the entity, including the business, would need additional space. He explained that the person would be contacted regarding asking for space in my father's building.

4. As a result, time and again, the Government of India has not been able to fulfill its contractual responsibilities and has failed to create a genuine legal authority in the

3. Some time in July of 2005 I was contacted by Kenneth M. Pease who stated that he was the owner of a business and was interested in leasing space from our building. Over the course of the next month we negotiated the lease for part of the first floor of my father's building.

6. At no time during the course of the negotiations did Ed Swan of Preferred Tax Service, Inc. contact me in any way or have any communication regarding how the lease was transpired.

The letter was signed on August 8, 2006, between my father and The City of Chicago. The letter said that the City of Chicago had purchased the building on Market Street.

During the roundtable with the Tax Authority, it was apparent that work with a third party on this project made it difficult for the Tax Authority's needs to be met. Work was done on the basis of a compromise of the needs of the Tax Authority and the execution of the law. Decisions were made that were not in line with the funding of the projects that was made in the previous years. The Tax Authority's needs were not taken into account across the board, but rather, a number of needs that were not in line with the needs of the Tax Authority were taken into account in terms of the funding of the projects.

At the end of the study, the mean total amount of the milk was 3.67 ml per five-year period, which is the maximum value ever achieved in the study. The minimum amount of 1.32 (0.00) ml per five-year period was found in the first period.

10. The Commission found that the 1993-1994 financial year was the first in which the Government had received a dividend from the State-owned Enterprises and that the Government's contribution to the annual budget had increased. The Authority found no evidence that the Government had formally and publicly announced its specific negotiations with the unions in 1993.

41. Shortly after the beginning of October 2005, Plaintiff Swan and Mr. Harmon, who had banked out to Mr. Swan the same way that Mr. Swan had banked the bank loans, were both ordered by Mr. Harmon to file a letter to the Tax Authority, which is included in Plaintiff's complaint. Plaintiff's Son, Mr. Swan, was authorized to read the letter except for some minor variations and submit the letter for the purpose of helping out Mr. Swan. Shortly thereafter, Plaintiff received a letter back from Mr. Harmon, reading my letter stating that he would void the letter if I would return the \$14,100.00 to Monday, October 23, 2005.

12. I represented the letter to Mr. Swan and stated that if he would pay the \$14,100.00 then The Tax Authority, Inc. would vacate the premises. Mr. Swan indicated to me that he would loan my father \$14,100.00 and that he could repay upon the next time he leased the property to a tenant. I talked to my father and then responded back to Mr. Swan that it was not our mistake.

town poster, which said Mr. Swartz was "extremely rude" to a letter carrier. Mr. Swartz and Mr. P. J. Co. claimed over possession rights in the letter carrier's services. The complaint is dismissed.

Swartz and Co. are hereby notified that the letter carrier is hereby notified.

LEASE

THIS LEASE, made this 3rd day of AUG,
 A.D., 2005, between ROBERT A. PIANE, hereinafter called
 the Landlord, and TAX AUTHORITY, hereinafter called
 the Tenant: OF MAPLE SHADE, N.J. 1000 HARMON DR.
SUITE 110
MAPLE SHADE, N.J.
08052

WITNESSETH:

That the landlord leases to the Tenant and the Tenant
 leases from the Landlord for a term of 69 months, beginning on the
1st day of SEPTEMBER, 2005, and terminating on the 30 day
 of APRIL, 2011, part of the premises known as
2132 N. Market Street, 1st FLOOR CORNER STORE, city of Wilmington,
 County of New Castle, State of Delaware. A monthly rental of ONE
THOUSAND TWO HUNDRED FIFTY Dollars (\$1,250.00) per month, payable
 in advance each month at such place as the Landlord might from time
 to time designate. The first's month rent shall be due and payable
 on the first day of the lease term and subsequent payments on the
 same day of each month thereafter. The Landlord shall reserve the
 right to increase the rental fee at the end of the term of this lease.
1st YEAR PAID IN ADVANCE REDUCES RATE TO \$1,175 FOR FIRST
12 MONTHS (TOTAL \$14,100)
 The parties further agree:

1. All utility charges are to be paid by the Tenant
 including heat, electricity and telephone.

2. Prior to the execution of this lease, the premises
 were inspected by the Landlord and Tenant and found to be in good
 repair.

3. During the lease term and any extension thereof, Land-
 lord shall keep the leased premises fully insured against fire and
 shall obtain and keep insurance against damage or injury to person
 or property (owned by Landlord) upon the leased premises. Tenant
 shall be responsible for obtaining and keeping insurance against
 fire and theft of all contents owned by Tenant upon the leased
 premises.

4. The Tenant shall not assign or sublet the premises
 during the term without the written consent of the Landlord.

5. In case of default in any of the covenants, the
 Landlord may resume possession of the premises by giving the Tenant
 ten (10) days notice in writing of same default, and relet the
 same for the remainder of term, at the best rent that can be obtained
 for account of the Tenant who shall make good any deficiency.

That the Landlord leases to the Tenant the premises described in the lease from the Landlord for a term of 12 months, beginning on the 1st day of SEPTEMBER, 2004, and terminating on the 30th day of APRIL, 2005. The premises is located at 2132 N. Market Street, Wilmington, DE 19802, County of New Castle, State of Delaware. A monthly rent of Two Hundred Fifty Dollars (\$250.00) shall be paid in advance each month at such place as the Landlord may designate to time designate. The first month's rent shall be due and payable on the first day of the lease term and subsequent payments on the same day of each month thereafter. The Landlord reserves the right to increase the rental fee at the end of the term of the lease. 12 MONTHS (FORMAL) RENTAL RATE TO BE PAID IN ADVANCE

1. All utility charges are to be paid by the Tenant including heat, electricity and telephone.

2. Prior to the execution of this lease, the premises were inspected by the Landlord and Tenant and found to be in good repair.

3. During the term of this lease, any repairs to the premises shall be obtained and kept by the Tenant. The Tenant shall be responsible for the maintenance and repair of the premises and shall be responsible for the fire and theft of all contents owned by the Tenant on the premises.

4. The Tenant shall not assign or sublet the premises during the term without the written consent of the Landlord.

5. In case of default in any of the provisions of this lease, the Landlord may resume possession of the premises upon ten (10) days notice in writing to the Tenant. The Tenant shall be responsible for the remainder of the term of the lease and shall pay for account of the Tenant, who shall pay good and true rent.

MAIL ROUT TO:

R.A. FANE
2130 N. MARKET ST.
WILMINGTON, DE
19802

PH: 302-658-4353

6. At the expiration of the said term or upon breach by the Tenant of any of the covenants herein mentioned, the Tenant shall yield and surrender quiet and peaceable possession of said premises in the same order and condition as the same now are, reasonable wear and tear thereof, accident happening by fire or other casualties excepted.

7. The lease will terminate if the premises becomes uninhabitable because of delapidation, condemnation, fire, or other casualty for a period in excess of thirty days. Rent shall abate for any period that the premises are uninhabitable.

8. The Tenant shall take good care of the within demised premises and its fixtures; and shall at his own cost or expense make and do all repairs required to walls, ceilings, paper, plumbing work, pipes and fixtures belonging thereto, whenever damage or injury to the same shall have resulted from the misuse or neglect; and shall repair and make good any damage occurring to the building or any tenant thereof, by reason of any neglect, carelessness or injury to the gas or water pipes, draining systems, water meter, faucets, property glass, or heating equipment; and connections by the Tenant himself; or upon premises leased to said tenant, and not to call on the Landlord for any disbursement therefor.

9. The Tenant has no authority to make any alterations to the premises or to incur any debt or make any charge against the Landlord or create any lien upon the leased property for any work done or materials furnished without the express consent of the Landlord in writing.

10. Tenant will allow Landlord or any agent of the Landlord duly authorized in writing to enter upon the premises for purposes of inspection, repair, alteration, or improvement at reasonable times during daylight hours.

11.

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12.

13. The Tenant is leasing the part of the premises as follows: *2132 N. PARKWAY ST., 1ST FLOOR CORNER*

IN WITNESS WHEREOF, the parties have set their hands and seals to duplicate copies of this lease, each of which will read as an original.

abate for any period that the premises are uninhabitable.

8. The Tenant shall have the care of the leased premises and its fixtures and shall, at his own cost, make and do all repairs, including electrical, plumbing work, pipes and fixtures, and shall be liable for damage or injury to the premises or to any person or property or neglect; and shall be liable for any damage or injury to the building or any contents thereof caused by the carelessness or injury to the premises or to any person or property by the Tenant, including damage to the water meter, faucets, pipes, and connections by the Tenant, and not to deliver the premises to said tenant, and not to deliver the premises for any damage therefor.

9. The Tenant has no authority to make any alterations to the premises or to incur any debt or make any charge against the Landlord or create any lien upon the leased property for any work done or materials furnished without the express consent of the Landlord in writing.

10. Tenant will allow Landlord or any agent of the Landlord duly authorized in writing to enter upon the premises for purposes of inspection, repair, alteration, or improvement at reasonable times during daylight hours.

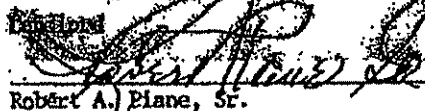
11.

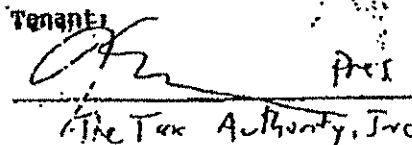
12.

13. The Tenant is leasing the part of the premises known as follows: 2132 N. HARVARD ST., 1st Floor, Chicago, Ill.

IN WITNESS WHEREOF, the parties have hereunto set their seals to duplicate copies of this lease, each of which shall be as an original.

SIGNED, SEALED AND DELIVERED
in the presence of:


Robert A. Plane, Sr.

Tenant:

The Tax Authority, Inc.

Redacted

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App 16

[illegible]

Redacted

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App 20

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